

1 AN ACT concerning public health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Clean Indoor Air Act is amended by
5 changing Sections 1, 2, 3, 4, 6, 7, 8, 9, 10, and 11 and by
6 adding Sections 4.5, 12, and 13 as follows:

7 (410 ILCS 80/1) (from Ch. 111 1/2, par. 8201)

8 Sec. 1. Short title. This Act shall be known and may be
9 cited as the "Illinois Clean Indoor Air Act".

10 (Source: P.A. 86-1018.)

11 (410 ILCS 80/2) (from Ch. 111 1/2, par. 8202)

12 Sec. 2. Legislative findings. The General Assembly finds
13 that tobacco smoke is a harmful and dangerous carcinogen to
14 human beings and a hazard to workers' ~~public~~ health. Secondhand
15 tobacco smoke causes at least 65,000 deaths each year from
16 heart disease and lung cancer according to the National Cancer
17 Institute. Secondhand tobacco smoke causes heart disease,
18 stroke, cancer, sudden infant death syndrome, low-birth-weight
19 in infants, asthma and exacerbation of asthma, bronchitis, and
20 pneumonia in children and adults. Secondhand tobacco smoke is
21 the third leading cause of preventable death in the United
22 States. Illinois workers exposed to secondhand tobacco smoke
23 are at increased risk of premature death. An estimated 2,900
24 ~~1,570~~ Illinois citizens die each year from exposure to
25 secondhand tobacco smoke. The United States Surgeon General has
26 determined that the simple separation of smokers and nonsmokers
27 within the same air space may reduce, but does not eliminate,
28 the exposure of nonsmokers to secondhand smoke. The
29 Environmental Protection Agency has determined that secondhand
30 smoke cannot be reduced to safe levels in business by high
31 rates of ventilation. Air cleaners, which are only capable of

1 filtering the particulate matter and odors in smoke, do not
2 eliminate the known toxins in secondhand smoke. The American
3 Society of Heating, Refrigerating, and Air-Conditioning
4 Engineers (ASHRAE) bases its ventilation standards on totally
5 smoke-free environments because it cannot determine a safe
6 level of exposure to secondhand smoke, which contains
7 cancer-causing chemicals, and ASHRAE acknowledges that
8 technology does not exist that can remove chemicals that cause
9 cancer from the air. A recently promulgated ASHRAE position
10 document on secondhand smoke concludes that, at present, the
11 only means of eliminating health risks associated with indoor
12 exposure is to eliminate all smoking activity indoors.

13 (Source: P.A. 94-517, eff. 1-1-06.)

14 (410 ILCS 80/3) (from Ch. 111 1/2, par. 8203)

15 Sec. 3. Definitions. For the purposes of this Act, the
16 following terms have the meanings ascribed to them in this
17 Section unless different meanings are plainly indicated by the
18 context:

19 (a) "Department" means the Department of Public Health.

20 (b) (Blank). ~~"Proprietor" means any individual or his~~
21 ~~designated agent who by virtue of his office, position,~~
22 ~~authority, or duties has legal or administrative~~
23 ~~responsibility for the use or operation of property.~~

24 (c) "Public place ~~Place~~" means any enclosed area to which
25 the public is invited or in which the public is permitted,
26 including, without limitation, banks, bars, educational
27 facilities, enclosed or semi-enclosed sports arenas,
28 government buildings, health care facilities, laundromats,
29 museums, public transportation facilities, reception areas,
30 recreational areas, restaurants, retail food production and
31 marketing establishments, retail service establishments,
32 retail stores, shopping malls, sports arenas, theaters, and
33 waiting rooms. "Public place" includes members-only clubs or
34 associations. ~~indoor area used by the public or serving as a~~
35 ~~place of work including, but not limited to, hospitals,~~

1 ~~restaurants, retail stores, offices, commercial~~
2 ~~establishments, elevators, indoor theaters, libraries, art~~
3 ~~museums, concert halls, public conveyances, educational~~
4 ~~facilities, nursing homes, auditoriums, arenas, and meeting~~
5 ~~rooms, but excluding bowling establishments and excluding~~
6 ~~places whose primary business is the sale of alcoholic~~
7 ~~beverages for consumption on the premises and excluding rooms~~
8 ~~rented for the purpose of living quarters or sleeping or~~
9 ~~housekeeping accommodations from a hotel, as defined in the~~
10 ~~Hotel Operators' Occupation Tax Act, and private, enclosed~~
11 ~~offices occupied exclusively by smokers, even though such~~
12 ~~offices may be visited by nonsmokers.~~

13 (d) "Smoking" means ~~the act of~~ inhaling, exhaling, burning,
14 or carrying the smoke from or possessing a lighted cigarette,
15 cigar, pipe, weed, hookah, or other lighted cigarette tobacco
16 product in any manner or form ~~or any other form of tobacco or~~
17 ~~similar substance used for smoking.~~

18 (e) "State agency" has the meaning formerly ascribed to it
19 in subsection (a) of Section 3 of the Illinois Purchasing Act
20 (now repealed).

21 (f) "Unit of local government" has the meaning ascribed to
22 it in Section 1 of Article VII of the Illinois Constitution of
23 1970.

24 (g) "Bar" means an establishment that is devoted to the
25 servicing of alcoholic beverages for consumption by guests on the
26 premises and in which the serving of food is only incidental to
27 the consumption of those beverages. "Bar" includes, but is not
28 limited to, taverns, nightclubs, cocktail lounges, and
29 cabarets.

30 (h) "Business" means a sole proprietorship, joint venture,
31 corporation, or other business entity, either for-profit or
32 not-for-profit, including (i) retail establishments where
33 goods or services are sold; (ii) professional corporations and
34 other entities where legal, medical, dental, engineering,
35 architectural, or other professional services are delivered;
36 and (iii) private clubs.

1 (i) "Employee" means a person who is employed by an
2 employer in consideration for direct or indirect monetary wages
3 or profit or a person who volunteers his or her services for a
4 non-profit entity.

5 (j) "Employer" means a person, business, partnership,
6 association, or corporation, including a municipal
7 corporation, trust, or non-profit entity, that employs the
8 services of one or more individual persons.

9 (k) "Enclosed area" means all space between a floor and a
10 ceiling that is enclosed or semi-enclosed with (i) solid walls
11 or windows, exclusive of doorways, or (ii) solid walls with
12 half wall partitions and no windows, exclusive of doorways,
13 that extend from the floor to the ceiling, including, without
14 limitation, lobbies and corridors.

15 (l) "Enclosed or semi-enclosed sports arena" or
16 "recreational area" means any sports pavilion, stadium,
17 gymnasium, health spa, boxing arena, swimming pool, roller and
18 ice rink, bowling alley, or other similar place where members
19 of the general public assemble to engage in physical exercise
20 or participate in athletic competition or recreational
21 activity or to witness sports, cultural, recreational, or other
22 events.

23 (m) "Health care facility" means an office or institution
24 providing care or treatment of diseases, whether physical,
25 mental, or emotional, or other medical, physiological, or
26 psychological conditions, including, but not limited to,
27 hospitals, rehabilitation hospitals, weight control clinics,
28 nursing homes, homes for the aging or chronically ill,
29 laboratories, and offices of surgeons, chiropractors, physical
30 therapists, physicians, dentists, and all specialists within
31 these professions. "Health care facility" includes all waiting
32 rooms, hallways, private rooms, semiprivate rooms, and wards
33 within health care facilities.

34 (n) "Place of employment" means an area under the control
35 of a public or private employer that employees normally
36 frequent during the course of employment, including, but not

1 limited to, work areas, employee lounges, restrooms,
2 conference rooms, meeting rooms, classrooms, employee
3 cafeterias, hallways, and vehicles.

4 (o) "Restaurant" means (i) an eating establishment,
5 including, but not limited to, coffee shops, cafeterias,
6 sandwich stands, and private and public school cafeterias, that
7 gives or offers for sale food to the public, guests, or
8 employees, and (ii) kitchens and catering facilities in which
9 food is prepared on the premises for serving elsewhere.

10 "Restaurant" includes a bar area within the restaurant.

11 (p) "Retail tobacco store" means any retail store utilized
12 primarily for the sale of tobacco products and accessories (i)
13 in which the sale of other products is merely incidental, (ii)
14 that does not hold a food service establishment license or
15 liquor license, and (iii) where no one under 18 years of age is
16 permitted.

17 (Source: P.A. 92-651, eff. 7-11-02.)

18 (410 ILCS 80/4) (from Ch. 111 1/2, par. 8204)

19 Sec. 4. Smoking in public places, places of employment, and
20 State-owned vehicles prohibited. No person shall smoke in a
21 public place or place of employment or within 15 feet of any
22 entrance to a public place or place of employment. No person
23 shall smoke in any vehicle owned, leased, or operated by the
24 State or a political subdivision of the State. ~~except in that~~
25 portion of a public place which may be established and posted
26 under Section 5 as a smoking area. This prohibition does not
27 apply in cases in which an entire room or hall is used for a
28 private social function and seating arrangements are under the
29 control of the sponsor of the function and not of the
30 proprietor or person in charge of the place. Furthermore, this
31 prohibition shall not apply to factories, warehouses and
32 similar places of work not usually frequented by the general
33 public.

34 (Source: P.A. 86-1018.)

1 (410 ILCS 80/4.5 new)

2 Sec. 4.5. Posting of signs; removal of ashtrays.

3 (a) "No Smoking" signs or the international "No Smoking"
4 symbol, consisting of a pictorial representation of a burning
5 cigarette enclosed in a red circle with a red bar across it,
6 shall be clearly and conspicuously posted in each public place
7 and place of employment where smoking is prohibited by this Act
8 by the owner, operator, manager, or other person in control of
9 that place.

10 (b) Each public place and place of employment where smoking
11 is prohibited by this Act shall have posted at every entrance a
12 conspicuous sign clearly stating that smoking is prohibited.

13 (c) All ashtrays shall be removed from any area where
14 smoking is prohibited by this Act by the owner, operator,
15 manager, or other person having control of the area.

16 (410 ILCS 80/6) (from Ch. 111 1/2, par. 8206)

17 Sec. 6. Enforcement; complaints.

18 (a) The Department, State certified local public health
19 departments, and local law enforcement agencies shall enforce
20 the provisions of this Act and may assess fines pursuant to
21 Section 7 of this Act. ~~The State or unit of local government or~~
22 ~~school district official or their designee or a proprietor and~~
23 ~~his agents in control of a place which includes a public place~~
24 ~~shall make reasonable efforts to prevent smoking in the public~~
25 ~~place outside established smoking areas by posting appropriate~~
26 ~~signs or contacting a law enforcement officer, or other~~
27 ~~appropriate means.~~

28 (b) Any person may register a complaint with the
29 Department, a State certified local public health department,
30 or a local law enforcement agency for a violation of this Act.
31 The Department shall establish a telephone number that any
32 person may call to register a complaint under this subsection
33 (b).

34 (Source: P.A. 86-1018.)

1 (410 ILCS 80/7) (from Ch. 111 1/2, par. 8207)

2 Sec. 7. Violations.

3 (a) A person, corporation, partnership, association or
4 other entity, who violates Section 4 of this Act shall be fined
5 pursuant to this Section is guilty of a petty offense. Each day
6 that a violation occurs is a separate violation.

7 (b) A person who smokes in an area where smoking is
8 prohibited under Section 4 of this Act shall be fined in an
9 amount that is not less than \$100 and not more than \$500. A
10 person who owns, operates, or otherwise controls a public place
11 or place of employment that violates Section 4 of this Act
12 shall be fined (i) not more than \$250 for the first violation,
13 (ii) not more than \$500 for the second violation within one
14 year after the first violation, and (iii) not more than \$2,500
15 for each additional violation within one year after the first
16 violation and shall receive a 60-day suspension or a revocation
17 of any permit or license issued to the person, corporation,
18 partnership, association, or other entity for the premises at
19 which the violation occurred.

20 (c) A fine imposed under this Section shall be allocated as
21 follows:

22 (1) one-half of the fine shall be distributed to the
23 Department; and

24 (2) one-half of the fine shall be distributed to the
25 enforcing agency.

26 (Source: P.A. 86-1018.)

27 (410 ILCS 80/8) (from Ch. 111 1/2, par. 8208)

28 Sec. 8. Injunctions. The Department, a local board of
29 health, local law enforcement agency, or any individual
30 personally affected by repeated violations may institute, in a
31 circuit court, an action to enjoin violations of this Act.

32 (Source: P.A. 86-1018.)

33 (410 ILCS 80/9) (from Ch. 111 1/2, par. 8209)

34 Sec. 9. Discrimination prohibited. No individual may be

1 discriminated against in any manner because of the exercise of
2 any rights afforded by this Act.

3 (Source: P.A. 86-1018.)

4 (410 ILCS 80/10) (from Ch. 111 1/2, par. 8210)

5 Sec. 10. Severability. If any provision, clause or
6 paragraph of this Act shall be held invalid by a court of
7 competent jurisdiction, such validity shall not affect the
8 other provisions of this Act.

9 (Source: P.A. 86-1018.)

10 (410 ILCS 80/11) (from Ch. 111 1/2, par. 8211)

11 Sec. 11. Local government regulation of smoking. ~~Home rule.~~

12 (a) ~~A~~ ~~Except as provided in subsection (b),~~ a home rule
13 unit of local government or any municipality or county in this
14 State may regulate smoking in public places and places of
15 employment, but that regulation must be no less restrictive
16 than this Act. This subsection (a) is a limitation on the
17 concurrent exercise of home rule power under subsection (i) of
18 Section 6 of Article VII of the Illinois Constitution.

19 (b) (Blank) ~~Any home rule unit that has passed an ordinance~~
20 ~~concerning the regulation of smoking prior to October 1, 1989~~
21 ~~is exempt from the requirements of subsection (a).~~

22 (Source: P.A. 94-517, eff. 1-1-06.)

23 (410 ILCS 80/12 new)

24 Sec. 12. Exemption from Act. The following are exempt from
25 the requirements of this Act:

26 (1) Municipalities with a population greater than
27 500,000.

28 (2) Private residences, except when used as a licensed
29 childcare facility, adult care facility, health care
30 facility, or a home-based business of any kind open to the
31 public.

32 (3) Hotel and motel sleeping rooms that are rented to
33 guests and are designated as smoking rooms, except that not

1 more than 25% of the rooms rented to guests in a hotel or
2 motel may be designated as smoking rooms.

3 (4) Retail tobacco stores, if smoke from the retail
4 tobacco store does not infiltrate into areas where smoking
5 is prohibited under the provisions of this Act.

6 (410 ILCS 80/13 new)

7 Sec. 13. Rules. The Department shall adopt rules necessary
8 for the administration of this Act.

9 (410 ILCS 80/5 rep.)

10 Section 10. The Illinois Clean Indoor Air Act is amended by
11 repealing Section 5.

12 Section 99. Effective date. This Act takes effect January
13 15, 2007.